



U.S. Department of the Interior
Office of Inspector General

AUDIT REPORT

ADMINISTRATIVE FUNCTIONS,
TERRITORIAL COURT
OF THE VIRGIN ISLANDS

REPORT NO. 98-I-669
SEPTEMBER 1998



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

SEP 9 1998

AUDIT REPORT

Honorable Verne A. Hodge
Presiding Judge
Territorial Court of the Virgin Islands
Post Office Box 70
St. Thomas, Virgin Islands 00804

Subject: Audit Report on Administrative Functions, Territorial Court of the Virgin Islands (No. 98-I-669)

Dear Judge Hodge:

This report presents the results of our review of administrative functions, primarily revenues and expenditures, of the Territorial Court of the Virgin Islands during fiscal years 1996 and 1997. The objective of our audit was to determine whether the Territorial Court (1) effectively assessed, collected, and controlled revenues for which it was responsible and (2) expended funds in accordance with applicable laws, rules, and regulations.

BACKGROUND

The judicial power of the U.S. Virgin Islands is vested in a court of local jurisdiction known as the Territorial Court of the Virgin Islands, which was established in September 1976 by Act No. 3876. The Court was given full jurisdiction over local civil cases in 1991 and full jurisdiction over local criminal cases in 1994. The Court has two divisions: one for operations on St. Thomas and St. John and the other for operations on St. Croix. The Court has six judges, who are appointed by the Governor, with the advice and consent of the Legislature, for 6-year terms. One judge is designated by the Governor as the Presiding Judge of the Court. The Court Administrator has oversight authority for the formulation and implementation of all policies and procedures for the conduct of the Court's business and deals directly with budget, accounting, and court security issues. The Clerk of the Court is responsible for oversight of the day-to-day operations of the Court's Civil, Small Claims, Family, Juvenile, Probate, Conciliation, Criminal, and Traffic Divisions, including the cashiers, marshals, and court reporters.

As of October 1997, the Court had 261 employees. However, at the exit conference on May 28, 1998, the Presiding Judge stated that the Court had 57 vacancies, including key financial management, procurement, and personnel management positions, which affected

the Court's operations in these administrative areas. The Court's operating budgets totaled \$11.7 million in fiscal year 1996 and \$15.7 million in fiscal year 1997. Actual expenditures totaled \$11.6 million in fiscal year 1996 and \$14.6 million in fiscal year 1997. The Court collects traffic fines assessed by the Police Department and various fees and fines assessed directly by the Court and deposits those collections into the Treasury of the Government of the Virgin Islands. These collections totaled \$1.1 million in fiscal year 1996 and \$1.3 million in fiscal year 1997. The Court is exempt from the requirements of Title 3 1, Chapter 23, of the Virgin Islands Code, which relates to procurements. However, its internal procurement rules and regulations require the use of competition whenever "feasible and warranted."

SCOPE OF AUDIT

The scope of the audit, which was performed from September 1997 to January 1998, included a review of revenue and expenditure transactions that occurred during fiscal years 1996 and 1997. We also reviewed the controls over equipment purchased during those fiscal years.

Our review was made, as applicable, in accordance with the "Government Auditing Standards," issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary under the circumstances.

As part of our review, we evaluated the internal controls over the assessment, collection, and deposit of revenues; the expenditure of budget allotments; and related administrative functions. The review did not disclose significant weaknesses related to payroll processing. However, we found internal control weaknesses related to revenue collections, procurement and property management functions, and other administrative functions, which are addressed in the Results of Audit section of this report. Our recommendations, if implemented, should improve controls in these areas.

PRIOR AUDIT COVERAGE

In August 1990, the Office of Inspector General issued the audit report "Administrative Operations of the Territorial Court of the Virgin Islands" (No. 90-93), which concluded that actions were needed to improve controls over (1) the approval of overtime; (2) the recording and safeguarding of personal property; (3) the collection and recording of fines, penalties, and other receipts; and (4) the disbursement of trust account funds. Our current review disclosed that deficiencies in the areas of collections, property management, and disbursement of trust funds still existed.

RESULTS OF AUDIT

The Territorial Court has made improvements since our 1990 audit report in carrying out its administrative functions, primarily with regard to controlling overtime. However, additional improvements were needed in the areas of revenue collections, procurement, expenditure control, and property management. Specifically, we found that (1) differences between collections and deposits were not reconciled, (2) funds held in trust for bail bonds were not disbursed in a timely manner, (3) expenditures from internal checking accounts were not controlled, (4) procurements were not made competitively, (5) employees did not account for travel advances, (6) personal long-distance telephone calls were made but not paid for, and (7) equipment was not adequately controlled. Governmentwide procedures for processing collections are contained in the Government Accounting Manual issued by the Department of Finance, and policies and procedures for controlling bail bonds and for procurement, travel, property management, and other administrative functions are contained in the Court's internal procedures manuals. The deficiencies occurred because the Court did not provide sufficient oversight of its employees, did not implement adequate procedures, or did not enforce these procedures. Also, duties were not segregated, and physical inventories of property were not conducted. As a result, bail bonds of \$130,000, some held for as long as 35 years, had not been disbursed to the appropriate third parties, and funds of \$70,752 in internal checking accounts and regular operating funds of \$8,590 were used for improper purposes. In addition, there was little assurance that the Court received the best prices for goods and services purchased; the Court was not reimbursed for an undetermined amount for personal telephone calls and for travel advances of \$13,100; and the potential existed for property to be lost, stolen, or otherwise unaccounted for.

Revenue Collection

The Court has five cashiers (including a head cashier), who are responsible for the daily collections of traffic fines (which are deposited into the Road Fund); Court fees, fines, and penalties (which are deposited into the Government's General Fund or various special funds); and funds representing small claims, bail bonds, civil judgments, executions, **garnishments**, trusts, and miscellaneous actions (which are deposited into the Court's internal Miscellaneous Account). The Court uses its own computer-generated cashier receipts and daily summaries to record daily collections. The bank deposit slip forms (formally titled "Certificates of Deposit") used by the Court are provided by the Department of Finance, and daily deposit information is typed onto the forms by the Court's head cashier.

Although the Government Accounting Manual requires that Government cashiers deposit all collections on a daily basis and reconcile daily collections to daily deposits, we found two instances, totaling \$1,125, in which the amounts shown on the daily deposit slips and on the daily summaries of cash receipts and the official cashier receipts were different. For example, we found that although the St. Thomas cashier's daily summary of collections for August 6, 1997, showed that \$25 was collected, \$475 was deposited on that date. We were unable to determine the source of the additional \$450 that was deposited. We also noted that the word "VOID" was not written across the face of cashier receipts that were listed as

“voided” on the daily summary of collections. Further, the file copies of seven cashier receipts for April 30, 1997, representing collections totaling \$200, were missing and could not be located by officials at either the Court or the Revenue Audit Section of the Department of Finance. Although the responsibility for reconciling collections and deposits was delegated to the head cashier, we believe that verification of the head cashier’s work by the Clerk of the Court would minimize the types of discrepancies disclosed by our review.

Regarding the physical security of collections, we found that the collection area at the Court’s offices on St. Thomas was properly safeguarded. However, at the Court’s offices on St. Croix, the door to the collection area was not kept locked, allowing unrestricted entry into the area. For example, we observed noncashier employees and employees’ family members entering and leaving the collection area. When we told Court officials about the inadequate security, the Assistant Court Administrator issued a memorandum to collection personnel directing them to ensure that the collection area was kept locked and that unauthorized personnel were not permitted access. At the Court’s offices on St. John, we found that daily deposits ranging from \$25 to \$600 were not properly protected because a night deposit bag and a security escort were not always available to the cashier at the time of the evening deposits.

The Court should establish procedures to require that reconciliations of collections and deposits are prepared daily by the head cashier and periodically reviewed by the head cashier’s supervisor, voided receipts are clearly marked, and all receipts (including those that are voided) are accounted for in numerical sequence. Additionally, the Court should attempt to reconcile the \$1,125 in differences that we identified between collections and deposits, locate the missing receipts for collections made on April 30, 1997, and provide adequate security to the cashier on St. John when making the daily evening deposits.

Internal Checking Accounts

The Court maintains four internal checking accounts, which are referred to as the Miscellaneous, Utility, Jury Fees and Expense, and Petty Cash Accounts. The Utility, Jury Fees and Expense, and Petty Cash accounts are funded through quarterly allotments from the Government and are used to pay specific operating expenses of the Court. The Miscellaneous Account is a revolving account in which monies from small claims, bail bonds, civil judgments, execution of court orders, garnishments, trusts, and miscellaneous actions are deposited for subsequent distribution based on the outcome of court cases.

Miscellaneous Account. We found that the Court did not reimburse payers of cash bail bonds that were not forfeited, even though the Court’s Procedures Manual states that cash bail bonds should be disbursed to the bondee or bondsman upon ascertaining the status of the related cases. Based on our review of the Miscellaneous Account, we determined that cash bail bonds totaling \$130,000, which were received by the Court during the periods of 1963 to 1975 and 1980 to 1987 (as long as 35 years ago), had not been appropriately disbursed. This occurred because the Court did not have adequate procedures to ensure that the appropriate Court officials were informed of the disposition of cases so that bail bonds

could be disbursed appropriately. A Court official also told us that the existing process for determining the status of cases was “too time consuming.”

We also found that the Court improperly used \$47,000 from the Miscellaneous Account for operating expenses that were not related to court cases. In March and August 1997, a total of \$24,500 was paid from the Miscellaneous Account for the purchase of airline tickets to be used by Court employees for official travel. In June 1997, \$2,500 was used to pay for the college tuition of a Presidential Scholar who was sponsored by the Court as part of a youth crime prevention program. Additionally, in February 1997, \$20,000 was transferred from the Miscellaneous Account to pay for the Court’s utility expenses. These expenditures were not detected because the same Court official who maintains the Miscellaneous Account was also responsible for certifying, authorizing, and approving all payment vouchers and for signing the checks. A key element of an effective system of internal controls is the segregation of duties, such as approving expenditures and making the actual disbursements, among different employees. The segregation of duties reduces the risk of errors, waste, or wrongful acts and increases the potential for detecting such acts if they occur.

The expenditures of \$47,000 from the Miscellaneous Account should be reimbursed to that account because funds in that account are held in trust for parties in cases being processed by the Court. Additionally, the Court should establish procedures to ensure that bail bonds and other trust funds held in the Miscellaneous Account are disbursed in a timely manner and attempt to locate the individuals to whom the \$130,000 in pending amounts should be disbursed. Further, the Court should establish procedures to ensure that there is proper segregation of duties between the individuals responsible for approving expenditures and the individuals responsible for issuing checks from the Court’s internal accounts.

Utility Account. The Court used funds of \$23,000 allocated for payment of its regular utility expenses for other obligations. Specifically, the \$23,000 was used for rental of equipment; supplies for cleaning, photocopiers, the jury deliberation room, and hurricane preparedness; professional membership and conference registration fees; hotel expenses; printing; postage, freight, and other delivery charges; laundry services; and other miscellaneous goods and services needed for the Court’s regular operations. As with the Miscellaneous Account, expenditures from the Utility Account were approved and disbursed by the same Court official. The \$23,000 disbursed for nonutility purposes should be reimbursed to the Utility Account.

Petty Cash Account. During fiscal years 1996 and 1997, the Court used a total of \$752 from the Petty Cash Account to (1) purchase personal items (such as birthday cards, floral arrangements, wreaths, and savings bonds) for employees and their family members; (2) purchase food for office functions; and (3) make various charitable contributions. The Petty Cash Vouchers used to record the payments from the Petty Cash Account contain the notation that “goods and/or services were purchased in accordance with applicable rules and regulations.” However, Court officials said that there were no specific criteria for the use of money in the Petty Cash Account. In generally accepted business practices, petty cash funds are used to pay for small business-related expenses for which the preparation of a formal

voucher and issuance of a check would be too expensive and time-consuming. Therefore, we believe that these expenses should have been paid through voluntary donations by the Court's employees (see the section "Procurement" in this report). The Court should establish procedures to define the types of expenditures that can be made from the Petty Cash Account.

At the exit conference on May 28, 1998, Court officials said that disbursements for general operating expenses were made from the Court's internal checking accounts because of delays by the Department of Finance in paying vendor invoices from the Court's General Fund appropriation accounts. Court officials also stated that \$27,000 had already been reimbursed to the Miscellaneous Account and that the other amounts discussed in the report would be reimbursed to the Miscellaneous, Utility, and Petty Cash Accounts.

Procurement

The Court is exempt by Title 3 1, Section 232(1), of the Virgin Islands Code from the procurement requirements contained in Title 3 1, Chapter 23, of the Code. However, the Court's Property and Procurement Manual states that "purchases shall be made on a competitive basis whenever feasible and warranted, including competitive negotiation." The Manual also requires that a record be kept of all written submissions and telephone negotiations or discussions with competitive suppliers. However, the Court did not always keep such records to document whether competitive proposals or price quotations were obtained.

We selected for review a random sample of 63 requisitions and 284 miscellaneous disbursement vouchers for purchases made by the Court's St. Thomas/St. John and St. Croix Divisions during fiscal years 1996 and 1997. Of the 347 procurement documents reviewed, we found that for 60 purchases, totaling \$238,000, the Court used "confirming orders," which means that the orders were placed with the vendors before the formal requisitions or purchase orders were prepared and approved. For example, on August 8, 1996, the Court purchased printing services at a cost of \$2,320. However, the appropriate purchase document was not prepared until October 1, 1996. In generally accepted business practices, a formal purchase order is used to establish the specifics of the goods or services being acquired, the cost and method of payment, and other provisions to protect the interests of the purchaser and the vendor. However, the Court's practice of acquiring goods and services without a purchase order and preparing "confirming orders" to document the purchases after-the-fact weakens internal controls over expenditures by allowing Court employees to acquire goods and services without proper authorization. Unlike the procurement regulations applicable to the Government's Executive Branch (Title 3 1, Section 234, of the Virgin Islands Code), the Court's Property and Procurement Manual does require that purchases be made "by written order."

We also found four instances, totaling \$8,590, where miscellaneous disbursement vouchers were used to acquire and pay for personal items, such as savings bonds, photo albums, and floral arrangements, to be presented to Court employees. In our opinion, except for items

presented to employees as part of an established employee incentive awards program, it is inappropriate to use Government funds for gifts or other presentations to employees or members of their families. Such presentations should be funded by voluntary contributions from the Court's employees.

The Court should establish procedures to require the use and documentation of competitive procurement practices, control the use of "confirming orders," and restrict the use of Government funds for employee-related gifts that are not part of a formal employee incentive awards program.

Travel Advances

The Court's Personnel Manual requires that all official travel be authorized in writing on a Government Transportation Request form and that, upon completion of the authorized travel, the traveler submit a summary of travel expenses. However, we reviewed documents related to 354 trips (both within and outside the Virgin Islands) taken by Court employees during fiscal years 1996 and 1997. We found, for 280 of the 354 trips reviewed, that travel expense forms had not been prepared and submitted by the travelers. Additionally, 10 travel advances, totaling \$13,100, remained outstanding and had not been accounted for by the travelers. These conditions occurred because the Court did not adequately monitor travel expenses and the use of travel advances to ensure that travelers promptly accounted for advances upon completion of travel.

Further, in 35 instances where travel vouchers were submitted to account for travel expenses, the travelers took an average of 3 1/2 months after completion of travel to submit the vouchers. Although the Court's travel regulations stipulate that employees must submit travel documents within 60 days (2 months) of completion of travel, Executive Order 3 10- 1989 requires that Executive Branch employees submit travel vouchers within 5 days of completion of travel.

The Court should revise its existing procedures to require that employees submit travel vouchers and account for cash advances within a shorter time period than the currently-allowed 60 days after completion of travel. The Court should also take action to require employees to account for the \$13,100 in outstanding travel advances disclosed by our review.

Long-Distance Calls

The Court's Personnel Manual states that the Court's telephones may not be used for personal long-distance calls except when the employee obtains permission and agrees to pay the long-distance charges promptly. However, we found that individuals were making personal long-distance calls at the Court's offices on St. Croix without going through an operator and without the calls being recorded, authorized, and paid for. We found that it was difficult to reconcile calls recorded on call slips to calls included on the telephone bills and that, for May and June 1996, 97 personal long-distance calls (cost not determinable) were

not reimbursed by the employees. Court officials told us that it was difficult to collect the amounts due from employees for personal long-distance calls, especially in cases where employees disputed that they had made the calls or questioned the costs of the calls.

At the Court's offices on St. Thomas, one employee's calls totaled \$1,600, and the Court had to obtain a power of attorney to garnish the funds from a lump-sum payment due the employee. During fiscal years 1996 and 1997, employees in both offices generated more than \$8,000 in personal long-distance calls that were reimbursed to the Government. However, we could not determine the costs of calls that were not reimbursed because we could not reconcile call slips to the telephone bills. In our opinion, the Court should discontinue the practice of allowing employees to use official telephones for personal long-distance calls except in the event of an emergency. Employees should be encouraged to obtain telephone calling cards from long-distance carriers to pay the cost of personal long-distance calls.

Property Management

Although the Court's Property and Procurement Manual requires that a complete physical inventory of all capitalized equipment be performed at least once biennially, such inventories were not performed. To test the accuracy of the Court's property records, we randomly selected 209 items of equipment listed in the property records and attempted to locate them. We were unable to locate 5 items and could not specifically identify 18 other items because they did not have property identification numbers affixed that would have allowed us to match them to the property records. We also noted that property identification tags were not always placed on property in locations where they were visible and easily accessible. Additionally, the property records needed to be updated to show items that had been relocated, were damaged, or were disposed of because they were obsolete. We found that these conditions occurred because responsibility for conducting inventories and updating the property records had not been delegated by the Court's Administrator to staff.

We believe that the Court should enforce its property management procedures by assigning to specific staff the responsibility to maintain accurate property control records, conduct physical inventories at least biennially, and affix property identification tags to all Government-owned property.

Recommendations

We recommend that the Presiding Judge of the Territorial Court:

1. Enforce existing policies and procedures which require that collections and deposits be reconciled on a daily basis; that such reconciliations be subjected to periodic independent review to test their accuracy; and that the Court's cashiers clearly stamp or mark receipts that have errors with the word "VOID" and account for all receipts, including those that are voided, in numerical sequence. Additionally, Court officials should attempt to reconcile the \$1,125 in differences between collections and deposits; locate the file copies

of the seven missing receipts for collections made on April 30, 1997; and provide the cashier on St. John with a security escort when making the daily evening deposits.

2. Establish internal policies and procedures to ensure that bail bonds and other funds held in trust in the Court's Miscellaneous Account are disbursed to the appropriate parties in a timely manner upon resolution of the court cases to which the funds pertain. Also, special efforts should be made to locate the related parties and disburse that portion of the \$130,000 held in the account as of January 1998 which pertains to cases that have already been finalized. For any portion of the \$130,000 that cannot be disbursed because the related parties cannot be identified or located, the procedures described in Title 28, Chapter 29, of the Virgin Islands Code concerning unclaimed property should be used to record the forfeiture of such property to the Government of the Virgin Islands.

3. Establish internal policies and procedures to ensure that proper segregation of duties is provided between the individuals responsible for approving expenditures from the Court's internal checking accounts and those responsible for issuing checks based on such approvals and that the internal accounts are used only for the specific purposes for which each account was established. Additionally, the Miscellaneous, Utility, and Petty Cash Accounts should be reimbursed for the Court operating and other expenses that were improperly paid from those accounts, but had not been reimbursed.

4. Enforce the existing policies and procedures which require the use of competitive procurements and establish policies and procedures to prohibit the use of "confirming orders" except in unusual circumstances and with prior written approval by the Court's Procurement Officer.

5. Establish policies and procedures with regard to the authorized purposes for which the Court's Petty Cash Account and other available funds can be used. Such policies and procedures should restrict the use of Government funds for employee-related gifts except where such gifts are a part of an established employee incentive awards program.

6. Revise existing policies and procedures to require that Court employees submit travel vouchers within a reasonable time (such as 10 working days) after completion of travel and to establish a system for ensuring that all travel advances are properly accounted for, including the requirement that employees should reimburse the Court for any unused balances of travel advances. In addition, the employees who have outstanding travel advances among the \$13,100 disclosed by the audit should be required to submit a full accounting of the use of those advances.

7. Discontinue the practice of allowing employees to use the Court's telephones for personal long-distance calls except in the case of emergency and with prior supervisory approval.

8. Enforce the existing property management procedures to ensure that complete and accurate property control records are maintained, physical inventories of equipment and

other personal property are conducted at least biennially, and property identification tags are affixed to an easily accessible location on all Government-owned property.

Territorial Court of the Virgin Islands Response and Office of Inspector General Reply

The July 31, 1998, response (Appendix 2) to the draft report from the Presiding Judge of the Territorial Court expressed partial concurrence with Recommendations 1, 2, 6, and 8 and nonconcurrence with Recommendations 3, 4, 5, and 7. Based on the response, we have revised Recommendations 1 and 2 and consider Recommendation 1 resolved and implemented and Recommendation 2 unresolved. Also based on the response, we consider Recommendations 3, 4, 5, 7, and 8 unresolved and request additional information for Recommendation 6 (see Appendix 2).

Recommendation 1. Partial concurrence.

Territorial Court Response. The Court “only partially agree[d]” with the recommendation, stating that “existing court policies and procedures already require daily reconciliation of collections and deposits, subject to periodic review by our Internal Auditor.” The Court also stated that “the fact that a few voided receipts were not stamped ‘VOID’ was an oversight, which may recur so long as human beings serve as cashiers.” Further, the Court noted that the seven missing receipts identified in the report had been located and that a night depository and security escort were provided for the St. John cashier.

In discussing the finding related to the recommendation, the Court explained the record-keeping error that resulted in a reported difference of \$450 between collections and deposits and then stated that the two examples cited in the report of differences between recorded collections and deposits “cannot justify... a sweeping conclusion” that “differences between collections and deposits were not reconciled.” The Court also stated that the seven receipts for April 30, 1997, that could not be located by the auditors “are on file.” The Court also stated that “in keeping with the [Government] Auditing Standards, the properly safeguarded collection area in St. Thomas should have been credited by the auditor.”

Office of Inspector General Reply. Based on the response from the Court, we have revised the recommendation to state that the Court should “enforce existing policies and procedures” concerning the reconciliation of daily collections and deposits and periodic supervisory reviews of the reconciliations. Further, we consider resolved and implemented the portions of the recommendation concerning the need to locate the seven missing receipts and to provide a security escort for the St. John cashier. However, we disagree that the finding made an unjustified “sweeping conclusion” concerning differences between recorded collections and deposits. The finding clearly states that “we found two instances” that had differences totaling \$1,125. Although \$1,125 was a relatively small amount compared with the more than \$1 million collected annually by the Court, we do not believe that this was a small discrepancy. Additionally, even though the Court was able to reconcile the \$450 difference related to one deposit and to locate the seven cashier receipts that were missing

at the time of the audit, these discrepancies existed at the time of the audit. Further, based on the Court's statement that the Court could not identify the transaction related to the additional \$675 difference between collections and deposits, we will provide details of that transaction to the Court. Lastly, although the discrepancies discussed in the section of the report "Revenue Collections" were relatively minor, they pointed out weaknesses in the Court's internal control procedures that could provide the opportunity for more significant errors in the future. However, because the Court has essentially taken the recommended actions, we consider the revised recommendation resolved and implemented. With regard to the Court's statement that the draft report did not comment on the adequate safeguarding of the collection area on St. Thomas, we revised that information in the section "Revenue Collection."

Recommendation 2. Partial concurrence.

Territorial Court Response. The Court "only agree[d], in part" with the recommendation, stating that "there is no lawful basis for the alleged \$130,000 in returnable bail bonds." The Court also stated that the finding "is a case of unnecessary sensationalism . . . which clearly violates the unclaimed property laws." Further, the Court stated that "refund applications which follow the [court] orders result in the prompt return of cash bail bonds; however, where no applications are filed, refunds are delayed pending review of the record."

Office of Inspector General Reply. We disagree with the Court for the following reasons: (1) we found no evidence that the Court had followed the procedures contained in Title 28, Chapter 29, of the Virgin Islands Code to have unclaimed bail bonds forfeited to the Government, and (2) Court officials told us, during the audit, that the disposition of bail bonds was not always cleared in a timely manner because of the time-consuming work necessary to review the applicable Court records. With regard to the procedure for forfeiture of unclaimed property, Title 28, Section 664, of the Code states:

Intangible property [defined as including "monies" and "checks"] held for the owner by a court, the Government of the Virgin Islands, its agencies and instrumentalities, a public corporation, or public authority which remains unclaimed by the owner for more than one (1) year after becoming payable or distributable is presumed abandoned.

However, Section 668 states:

(a) A person holding property, tangible or intangible, presumed abandoned and subject to custody as unclaimed property under this chapter shall report to the Administrator [defined as the Lieutenant Governor] concerning the property. ...

(b) The report must be verified and must include: (1) except with respect to travelers checks and money orders, the name, if known, and last known

address, if any, of each person appearing from the records of the holder to be the owner of property of the value of \$25 or more presumed abandoned under this chapter; ...

Additionally, Section 669 states:

(a) The Administrator [the Lieutenant Governor] shall cause a notice to be published not later than March 1 ... of the year immediately following the report required by section 668 of this chapter at least once a week for two (2) consecutive weeks in a newspaper of general circulation in the United States Virgin Islands.

During the audit, we were not provided any documentation to indicate that the Court had complied with these procedures. In fact, at the May 28, 1998, exit conference on the preliminary draft of this report, the Presiding Judge suggested that the Court, as an intermediary step, publish a list of unclaimed bail bonds in a local newspaper. Therefore, we believe that the finding is accurate and the recommendation valid. However, we have revised the recommendation to incorporate reference to the procedures contained in Title 28, Chapter 29, of the Virgin Islands with regard to unclaimed property to **clarify** the necessary corrective actions, and the Court is requested to reconsider its response to the recommendation, which is unresolved.

Recommendation 3. Nonconcurrency.

Territorial Court Response. In its response, the Court said that it "**reject[ed]** this recommendation as clearly erroneous and inappropriate," stating elsewhere in the response that "the court is authorized by law to utilize any suitable means to effectuate its jurisdiction, and to transfer funds between accounts to maximize the quality of judicial services rendered to the public, so long as the limits of the court's appropriations are not exceeded." The Court further stated that questioned expenditures of \$47,000 from the Court's Miscellaneous Account were for legitimate Court purposes and were not in excess of the Court's appropriations but were made because of the "failure of the [Government's] executive branch to release the court's funds to pay its vendors" and that "it was essential for the work of the court to continue. .. and the entire \$47,000 [was] reimbursed to the Miscellaneous Account **after** the crisis abated." The Court also stated that it used the \$23,000 from the Court's Utility Account on the same basis as the \$47,000 borrowed from the Miscellaneous Account and that the \$23,000 had already been reimbursed.

Office of Inspector General Reply. Although we acknowledge the Court's use of the Miscellaneous Account to pay legitimate Court expenditures during a time of financial crisis, we do not believe that this action was appropriate because the Miscellaneous Account is the primary account used by the Court to deposit bail bonds and other amounts that are held in trust for participants in Court cases pending final disposition of those cases. Therefore, the funds in the Miscellaneous Account are essentially not the Court's or the Government's funds to be used for such purposes. In addition, although the Court stated that

the entire \$47,000 had been reimbursed to the Miscellaneous Account, we believe that the finding and recommendation are accurate for the following reasons: (1) the \$47,000 was outstanding at the time of the audit (which was completed in January 1998), and (2) the Court Administrator, during the May 28, 1998, exit meeting on the preliminary draft of this report, stated that as of that date, \$27,000 had been reimbursed to the Miscellaneous Account while the remaining \$20,000 would be reimbursed within a week. As such, the full reimbursement occurred almost 6 months after completion of the fieldwork. Regarding the \$23,000 used from the Utility Account for nonutility expenses, this amount had not been reimbursed to the Utility Account at the time of the audit and at the time of the May 28, 1998, exit meeting.

Recommendation 4. Nonconcurrency.

Territorial Court Response. The Court stated, “At the exit conference, we made it clear that the use of ‘confirming orders’ is not illegal, and that they will be used whenever it is necessary to insure the continuation of judicial services to the public.” In discussing the finding on which the recommendation is based, the Court also stated, “The financial crisis created by the central government resulted in an almost complete refusal of vendors to do business with any local government agency, including the court.” Therefore, according to the Court, “invitations for bids, competitive negotiations, and purchase orders were being rejected.” The Court also stated, “The supplying of goods and services were denied unless and until payment was received in full and, in many instances, in advance, thereby triggering the use of confirming orders to prevent disruption of our judicial services.” Further, the Court stated that “not one of the 347 procurement documents [reviewed by the auditors] was without proper authorization, and the auditor has shown none. The mere reference to ‘generally accepted business practice’ cannot and does not vitiate the authorization granted by the Court’s manual.”

Office of Inspector General Reply. The Court’s statement that Court officials stated during the exit conference that “confirming orders are not illegal” is not accurate because no specific mention of “confirming orders” was made during the May 28, 1998, exit conference. More importantly, the response does not address the fact that the use of “confirming orders” makes ineffective one of the most important internal controls over any organization’s procurement process -- the written authorization of purchases by an appropriate official. A “confirming order” is used when an employee of an organization, in this case the Court, goes to a vendor and purchases goods or services without a written purchase order or other authorizing document. The purchase order is prepared after the fact to confirm the verbal purchase commitment that was previously made. By allowing this practice the Court significantly increases the risk that an employee may improperly acquire goods or services for personal use without the knowledge of appropriate Court officials. This internal control weakness is recognized in the procurement regulations (Title 3 1, Chapter 23, of the Virgin Islands Code) that apply to the Executive Branch of the Government, which require that all purchases be made by written order. We believe that the Court’s internal procurement regulations should have the same requirement. Regarding the use of competitive procurement procedures, we acknowledge that the Court may have

experienced difficulties in finding vendors that were willing to conduct business with a Governmental agency. However, the Court, in those instances, should have followed generally accepted business practice (as required for the Executive Branch by the Virgin Islands Code) of documenting such instances in the appropriate procurement files as justification for not using competitive procurement. Therefore, the recommendation remains valid. Lastly, the Court's statement that "not one of the 347 procurement documents was without proper authorization" does not address the audit finding. Specifically, in the finding, we state that 60 of the 347 procurement actions reviewed were made using confirming orders, not that they were made "without proper authorization." The purpose of the confirming orders was to provide authorization after the fact.

Recommendation 5. Nonconcurrence.

Territorial Court Response. In its response, the Court "reject[ed]" this recommendation, stating that "the record substantiates the fact that the court has an established 'employee-incentive awards program.'" With regard to the finding on which the recommendation was based, the Court stated that \$752 from the Petty Cash Account was used for "employee incentive awards and family bereavement wreaths" and that "this court intends to continue to utilize the Petty Cash Account for such minor expenses." The Court also stated that the expenditure of \$8,590 through purchase orders for savings bonds, photo albums, floral arrangements, and other similar items was part of an "employee-incentive awards program."

Office of Inspector General Reply. Although the Presiding Judge stated, during the May 28, 1998, exit meeting, that such items were given to employees as "incentives" to make up for the low salaries and lack of advancement opportunities, we were not provided any documentation during the audit and nothing was mentioned by Court officials during the May 28, 1998, exit meeting to support the statement in the response that the Court had an established employee incentive awards program. Additionally, the Court's Personnel Manual does not contain any reference to an employee incentive awards program. Regardless of whether or not such a program exists, we believe that the recommendation to establish formal policies as to what types of expenditures are legitimate items to be paid from the Court's Petty Cash Account and to restrict the use of Government funds for gifts to employees except where such gifts are part of a formal employee incentive awards program is valid. In our opinion, an employee incentive awards program should be based on written criteria that define the employee actions or occasions which would warrant the receipt of an award, the types and value of awards that can be presented to employees, the procedures to be used to nominate employees for awards, and the bases upon which nominees would be judged and selected for awards.

Recommendation 6. Partial concurrence.

Territorial Court Response. The Court said that it "agree[d]" with the portion of this recommendation regarding the reduction of the time allowed for submission of travel vouchers" but that "it is already the policy of the court that all travel advances be properly

accounted for,” including reimbursement for unused amounts. In discussing the finding on which the recommendation was based, the Court stated that “the initial finding by the auditor regarding the filing of ‘travel expense forms’ is very misleading” because “where no travel expenses are incurred there is no need to file an expense form.” The Court also stated that in 1 of the 10 cases of outstanding travel advances cited in the finding, the Department of Finance canceled the travel advance check because it was not prepared prior to the date of travel and that the other nine travelers “have now filed their travel vouchers.” The Court further stated that it agreed to “review our 60-day period for the submission of travel documents, and to consider its reduction.”

Office of Inspector General Reply. Section 1 O(b) of the Court’s Travel Regulations (which are contained in the Court’s Personnel Manual), states, “The Travel Expense Claim Form shall be used for the reporting and record-keeping of necessary travel information and expenditures and for claiming refunds or returning excess funds.” This provision of the Travel Regulations suggests to us that the Travel Expense Claim Form, which includes sections for recording the dates and route of travel, actual expenses and/or per diem allowances and for the reconciliation of travel advances, is intended to provide a permanent record of official travel. The Form also provides space for indicating the corresponding Government Transportation Request number, which would allow the Form to be used to verify that airline tickets purchased through Government Transportation Requests were used for official purposes. Therefore, the statement “where no travel expenses are incurred there is no need to file an expense form” is not accurate. With regard to the 10 outstanding travel advances cited in the finding, Court officials did not tell us or provide any supporting documentation during the audit that 1 of the travel advances had subsequently been canceled. Additionally, even though the other nine travelers filed their travel vouchers subsequent to our audit, the finding and the recommendation were based on conditions that existed at the time of the audit.

Recommendation 7. Nonconcurrency.

Territorial Court Response. The Court stated, “The existing policy of the court already limits the use of the Court’s telephone for personal long distance calls, except in emergencies of staff employees, and except for supervisory employees.” The Court also stated, “Non-supervisory employees are authorized such use in emergency cases only, and in that even permission must be obtained in advance and payment must be made promptly.” The Court also acknowledges that the practice used at the Court’s office on St. Croix did not adhere to established policy and that “the costs for all personal calls are being collected.” However, the Court further stated that the “‘personal-calls’ privilege is a convenience and a morale booster” and that it “will not discontinue the practice as recommended by the auditor.” The Court further stated, “Instead, we will more closely monitor [the practice] to minimize errors or abuse.”

Office of Inspector General Reply. Because of the added supervisory oversight and work load related to tracking personal long distance calls and the cost of processing and collecting the appropriate charges from employees, as well as the availability of long

distance calling cards, we believe that the Court's position on this matter results in an unwarranted use of Government resources. We continue to believe that the Court should prohibit the use of official telephones for personal long distance calls except for emergencies and those with prior supervisory approval.

Recommendation 8. Partial concurrence.

Territorial Court Response. The Court said that it disagreed with the portion of the recommendation concerning the placement of property identification tags in an easily accessible location on all Government-owned property. In discussing the finding, the Court stated that it "consider[s] these findings to be substantially without merit." Specifically, the Court stated that Court officials were able to locate five items of equipment that the auditors could not locate, that "the description in the inventory is sufficient for the auditor to identify such property" without access to a property identification number, and that "generally accepted security policies require the placement of ID [identification] tags in inconspicuous places on the property."

Office of Inspector General Reply. Although the Court was subsequently able to locate five items of equipment which could not be located by the auditors, the items could not be located at the time of the audit. Additionally, without verification of property identification numbers, the auditors could not be assured which, of similar items (for example, similar chairs, desks, or filing cabinets) were the specific items included in the audit sample. Therefore, the Court's statement that "the description in the inventory is sufficient for the auditor to identify such property" is not valid, and the Court has not satisfactorily identified the items of equipment that are cited in the finding. Lastly, the Court's Property and Procurement Manual does not address the location of property identification tags, and the Court did not provide any documentation for the "generally accepted security policies" cited in the response. However, even if "security policies" exist that require property identification tags to be placed in inconspicuous places, such locations can still be easily accessible, such as on the bottom of chair seats and table tops or inside desk and filing cabinet drawers, to facilitate the annual physical inventories and reconciliations to property records.

General Comments on Audit Report

The Territorial Court provided additional comments on the report. The Court's comments and our reply are as follows:

Territorial Court Response. The response stated, "While we agree that the preliminary draft of the audit report was fully and amicably discussed at the exit conference on May 28, 1998, we did not concur with the findings and recommendations." Based on the specific disagreements with the audit findings and recommendations, the Court also disagreed with the monetary amounts shown in Appendix 1 of the report. Additionally, the response states that since the audit was conducted in accordance with the "Government

Auditing Standards," issued by the Comptroller General of the United States, "both positive and negative findings should have been reported."

Office of Inspector General Reply. We found that the Court's July 28, 1998, response to the draft report was completely different in its receptiveness, responsiveness, and overall tone than the comments of Court officials at the exit conference, who included the Presiding Judge, the Court Administrator, the Court's General Counsel, and the Clerk of the Court. Office of Inspector General representatives in attendance were the Audit Director, the Senior Auditor, and two of the three auditors who conducted the on-site audit work. The Presiding Judge, in opening the meeting, stated that the audit had been a "pleasant situation" for Court officials and employees and that a "very good rapport" had been maintained between Court and Office of Inspector General staff throughout the audit. He also stated that the preliminary draft report was "fair" and that he was overall "pleased" with the report. In response, the Audit Director stated that the entire audit team was likewise pleased with the cooperation that they received during the audit. He also commented that the audit was one of the "cleanest" he had been involved with in recent years and that the findings discussed in the preliminary draft report were relatively minor issues.

Throughout the discussion that followed, which focused on a page-by-page review of the report's contents, Court officials expressed general agreement with the details in the findings and brought to the auditors' attention any circumstances that required the Court to take actions. In specifically discussing the audit recommendations, the Presiding Judge expressed the sentiment that the recommendations were fair and were actions that the Court could accomplish. However, the Court's July 28, 1998, response to the draft report was contrary to what was discussed at the exit conference and essentially disagreed with the deficiencies identified in the audit report.

With regard to the Court's reference to the "Government Auditing Standards," paragraphs 7.43 and 7.44 of the "Standards" state:

Auditors should report noteworthy accomplishments, particularly when management improvements in one area may be applicable elsewhere.

Noteworthy management accomplishments identified during the audit, which were within the scope of the audit, should be included in the audit report along with deficiencies. Such information provides a more fair presentation of the situation by providing appropriate balance to the report. In addition, inclusion of such accomplishments may lead to improved performance by other government organizations that read the report. [Emphasis added.]

The first sentence of the "Results of Audit" section of the report states, "The Territorial Court has made improvements since our 1990 audit report in carrying out its administrative functions, primarily with regard to controlling overtime." Although the Court may have produced significant accomplishments in its judicial activities and programs, those areas were not within the scope of our audit, which covered the administrative activities of the

Court. Therefore, we were not in a position to comment positively or negatively on the Court's judicial or other nonadministrative activities. We believe that on an overall basis, the report accurately presents the results of our audit, which, as the Auditor Director stated to Court officials at the exit meeting, reflected relatively minor deficiencies that could be corrected by the Court with a minimum of effort.

Lastly, although the Court disagreed with the monetary amounts presented in Appendix 1 of the report, it did not provide information regarding what the monetary amounts should be.

The Inspector General Act, Public Law 95-452, Section 5(a)(3), as amended, requires semiannual reporting to the U.S. Congress on all audit reports issued, the monetary impact of audit findings (Appendix 1), actions taken to implement audit recommendations, and identification of each significant recommendation on which corrective action has not been taken.

In view of the above, please provide a response, as required by Public Law 97-357, to this report by October 9, 1998. The response should be addressed to our Caribbean Office, Federal Building - Room 207, Charlotte Amalie, Virgin Islands 00804. The response should provide the information requested in Appendix 3.

We appreciate the assistance of the staff of the Territorial Court in the conduct of our audit.

Sincerely,

A handwritten signature in cursive script, reading "Robert J. Williams".

Robert J. Williams
Assistant Inspector General
for Audits

CLASSIFICATION OF MONETARY AMOUNTS

| <u>Finding Areas</u> | <u>Funds To Be Put To Better Use*</u> | <u>Questioned costs*</u> |
|-----------------------------|---|------------------------------|
| Administrative Functions | | |
| Internal Accounts | | |
| Undisbursed Bail Bonds | \$130,000 | |
| Questionable Expenditures | | |
| Miscellaneous Account | | \$47,000 |
| Utility Account | | 23,000 |
| Petty Cash Account | | 752 |
| Procurement | | |
| Questionable Expenditures | | 8,590 |
| Travel Advances | | |
| Outstanding Travel Advances | 13,100 | |
| Total | <u>\$143,100</u> | <u>\$79,342</u> |

*Amounts represent local funds.

TERRITORIAL COURT OF THE VIRGIN ISLANDS

CHAMBERS OF
VERNE A. HODGE
PRESIDING JUDGE



P.O. BOX 7603
CHARLOTTE AMALIE
ST. THOMAS, V.I. 00801

(809) 774-7674
e-mail address: chiefhank@tcourt.gov.vi

July 28, 1998

DRAFT AUDIT RESPONSE

Honorable Robert J. Williams
Acting Inspector General
U.S. Department of the Interior
Caribbean Region
Room 207, Federal Building
St. Thomas, Virgin Islands 00802

Subject: Draft Audit Report on Administrative Functions, Territorial Court
of the Virgin Islands (Assignment No. V-IN-VIS-001-98)

Dear Mr. Williams:

In response to the Draft Audit Report dated June 2, 1998, I submit, on behalf of the Territorial Court, the following agreements, objections, and comments to the proposed audit findings and recommendations:

A. Scope and Standard of Review

The audit was required to be conducted in accordance with the "Government Auditing Standards" issued by the Comptroller General of the United States. Thus, both positive and negative findings should have been reported. We were therefore disappointed to note that except for the improvement in controlling overtime, no other accomplishments of the court have been cited. Nevertheless, we commend the auditors for their cooperative attitude which insured an amicable relationship with our employees throughout the audit.

B. Results of Audit

The "Results of Audit" specifically addressed four areas of review - revenue collections, procurement, expenditure control, and property management - and we hereby respond to them, seriatim:

Hon. Robert J. Williams
July 28, 1998

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1. Revenue Collections

a. Cashiers Offices

(1) We disagree with the assertion that "differences between collections and deposits were not reconciled." In attempting to justify this claim the auditor contends that the amounts shown on the daily deposit slips and the amounts on the daily receipts were different on August 6, 1997. Specifically, the auditor alleges a collection of \$25.00 on that date but a deposit of \$475.00, and states "we were unable to determine the source of the additional \$450.00 that was deposited. "

Our review of the record discloses that the source of the \$450.00 is traffic fines collected on that traffic hearing date for deposit to the Road Fund. The additional \$25.00, collected on that same date for a criminal case, was to be deposited to a separate fund, but was erroneously included in the Road Fund deposit. It was in attempting to correct this error that the document showing a separate \$25.00 was prepared. This error cannot justify such a sweeping conclusion. The auditor referred to two instances totalling \$1,125 but only gave details regarding the aforesaid \$475.00. Without more specific information we are unable to address the other instance allegedly needing reconciliation. Nevertheless, it is obvious that such minor alleged discrepancies, in the face of the volume of funds handled by our cashier's throughout the two-year audit period, do not warrant the audit finding that "collections and deposits were not reconciled" when, in fact, they are reconciled daily.

Moreover, the auditor referred to seven missing cashier receipts for April 30, 1997. Our review disclosed that copies of all seven receipts are on file. Those receipts are Numbers 266903 to 266908, totalling \$200.00 in traffic fines and costs, and copies are attached hereto as Exhibit 1.

(2) Regarding the physical security of collections, we agree with the auditor's finding that the St. Croix cashiers office should be locked and entry restricted, and we appreciate the acknowledgement that the area was immediately secured and an enforcing memorandum issued by the Assistant Court Administrator. We do believe, however, that in keeping with the Auditing Standards, the properly safeguarded collection area in St. Thomas should have been credited by the auditor.

(3) Regarding the court offices on St. John, we agree with the auditor regarding the regular availability of a night deposit bag. We have provided for security escorts, have entered into a Night Depository Service Agreement with Chase Manhattan Bank, and have implemented the night depository system in St. John.

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b. Internal Checking Accounts

(1) **Miscellaneous Account** - The allegation that bail bonds totalling \$130,000, relating as far back as 35 years, was payable by the court is contrary to law and constitutes unnecessary sensationalism. At the exit conference the auditors were advised of the unclaimed property laws that forfeit such abandoned property. Nevertheless, with total disregard for the law, the auditor erroneously adds \$44,916 from a 1963 list to \$85,256 from a 1980 list, thereby arriving at the unenforceable sum of \$130,430 (rounded to \$130,000). Clearly, there is no merit to this contention.

The allegations that the court improperly used \$47,000 from the Miscellaneous Account and that these expenditures were not detected are both false. The court is authorized by law to utilize any suitable means to effectuate its jurisdiction, and to transfer funds between accounts to maximize the quality of judicial services rendered to the public, so long as the limits of the court's appropriations are not exceeded. Here, it is obvious that the use of the \$47,000 from the Miscellaneous Account for travel (\$27,500), tuition (\$2,000), and utilities (\$20,000) was for legitimate court purposes and was not in excess of the court's appropriations. Indeed, it was the failure of the executive branch to release the court's funds to pay its vendors that led to a constitutional crisis and a threatened legal challenge against the Governor, the Budget Director, and the Commissioner of Finance. While the crisis existed, it was essential for the work of the court to continue; therefore, the expenditures were authorized by the undersigned, not by the certifying official, and the entire \$47,000 were reimbursed to the Miscellaneous Account after the crisis abated. Accordingly, the court should be complimented for its positive action during the crisis instead of being criticized for it.

(2) **Utility Account** - This is another account from which the court is authorized to utilize funds for other lawful judicial obligations. Thus, it is erroneous for the auditor to imply that the expenditures were improper. As with the Miscellaneous Account, the reasons are valid, the expenditures were authorized by the undersigned, and the \$23,000 have already been fully reimbursed to the Utility Account.

(3) **Petty Cash Account** - The use of \$752 over a two-year period for employee incentive awards and family bereavement wreaths was approved by the undersigned and is authorized by law, as explained above. This amount is quite negligible and merely supplemented the personal contributions of court

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employees. It is quite presumptuous of the auditor to assume that these expenses were in lieu of employee donations. This court intends to continue to utilize the Petty Cash Account for such minor expenses. Since all expenses are fully disclosed, authorized, and replenished on a regular basis, there is no need for the promulgation of additional petty cash procedures.

2. Procurement

The auditor accurately quoted the competitive provision of the court's Property and Procurement manual; however, the significance of the phrase "when-ever feasible and warranted" was either overlooked or ignored. At no time in the history of this court was the phrase more essential than during the period of this audit. The financial crisis created by the central government resulted in an almost complete refusal of vendors to do business with any local government agency, including the court. Thus, invitations for bids, competitive negotiations, and purchase orders were being rejected. The supplying of goods and services were denied unless and until payment was received in full and, in many instances, in advance, thereby triggering the use of confirming orders to prevent disruption of our judicial services.

Under such circumstances, the undersigned found the use of the usual competitive process to be both "unfeasible" and "unwarranted". Therefore, the procurement of the goods and services in question were consistent with the exception authorized by the procurement manual. Indeed, not one of the 347 procurement documents was without proper authorization, and the auditor has shown none. The mere reference to "generally accepted business practices" cannot and does not vitiate the authorization granted by the Court's manual.

Moreover, the record substantiates the fact that the court has an established "employee-incentive awards program." This program includes awards for three or less absences during the year; years of service awards in five-year intervals; and special awards for outstanding service. Medals, Photos, Certificates, Plaques, and U.S. Savings Bonds in varying denominations are presented at the court's annual Christmas party, and at other special occasions. The use of Miscellaneous Disbursement Vouchers to pay for such items under the employee incentive program is clearly authorized by law. We therefore must disagree with the auditor's characterization of these expenditures as "inappropriate."

3. Expenditure Control

(a) Travel Advances - The initial finding by the auditor regarding the filing of "travel expense forms" is very misleading. As we explained at the exit conference, where no travel expenses are incurred there is no need to file an expense

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form. We made it clear that the vast majority of the 354 trips referred to were within the Virgin Islands, and in those cases advance is paid and no expenses are charged to the court. Thus, the only necessary documents are the GTR for the travel ticket, and the used ticket which are reported and filed to verify that the trip was taken. We therefore object to the linkage of the "within the V.I." and the "outside the V.I." travel documents.

The auditor alleges that ten (10) travel advances for off-island travel remained outstanding; however, one of the travelers did not receive a travel advance because the Department of Finance did not process the check before the trip and cancelled the advance after the travel date. It is improper for the auditor to charge that a travel advance was received when there is no evidence that a check was negotiated. However, we do agree that we should have more adequately monitored the other nine travelers, all of whom have now filed their travel vouchers. Moreover, while we consider the five-day deadline of the Executive Branch to be unrealistic, we agree to review our 60-day period for the submission of travel documents, and to consider its reduction.

(b) Long-Distance Calls - the policy of this court authorizes supervisors to use official telephones for personal long-distance calls as a perquisite of office. Non-supervisory employees are authorized such use in emergency cases only, and in that event permission must be obtained in advance and payment must be made promptly. In furtherance of this policy all non-supervisory phones are toll-barred and no long-distance calls may be made from them. In emergencies, non-supervisory personnel must get permission and process the calls through the switchboard operator. The erroneous practice on St. Croix, as cited by the auditor, was immediately corrected by the Assistant Court Administrator, and the costs for all personal calls are being collected.

When funds are not available for salary increases or promotions, an administrator must seek "in-kind" benefits for his staff. The "personal-calls" privilege is a convenience and a morale booster which cost the court nothing, since all personal calls must be paid for. No policy is perfect, but the benefits of such a policy far outweigh the detriment presented by any periodic breach of the policy. Thus, we will not discontinue the practice as recommended by the auditor. Instead, we will more closely monitor it to minimize errors or abuse.

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4. Property Management

We consider these findings to be substantially without merit. First, the five (5) items of property which the auditor could not locate have all been identified and accounted for, as follows:

| <u>Item</u> | <u>Location</u> |
|----------------------------|---|
| 1. IBM Wheelwriter (St. X) | Maintenance Storage |
| 2. Keyboard (not computer) | Computer Room |
| 3. TV Cart | Destroyed in Hurricane Marilyn (See attached Certificate of Loss or Damage - Exhibit 2) |
| 4. Chair (jungle print) | Courtroom 5 (Jury Box) |
| 5. Vacuum Cleaner | Janitor's Closet, 2nd Floor, South Wing |

Second, even though certain property ID numbers may have been obliterated, torn, or stripped, the description in the inventory is sufficient for the auditor to identify such property and account for their existence and location. Thus, the allegation that eighteen (18) items of property could not be specifically identified is erroneous.

Third, generally accepted security policies require the placement of ID tags in inconspicuous places on the property. Therefore, the auditor's contention that ID tags should be placed in visible and easily accessible areas of the property is specious. We explained our position at the exit conference, and we stand by it. It is obvious that in the face of 57 vacancies, including our Property Manager, we have accounted for every single piece of property tested by the auditor. Under such circumstances, the overworked and limited staff of this court deserves praise, not discouragement.

C. Recommendations

1. We only partially agree with this recommendation because existing court policies and procedures already require the daily reconciliation of collections and deposits, subject to periodic review by our Internal Auditor. The fact that a few voided receipts were not stamped "VOID" was an oversight, which may recur so long as human beings serve as cashiers. As explained in Section B(I)(a) above,

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copies of the seven (7) missing receipts are on file, and night depository as well as security escort are provided for the St. John cashier.

2. We only agree, in part, with this recommendation because there is no lawful basis for the alleged \$130,000 in returnable bail bonds. This is a case of unnecessary sensationalism in referring back to 1963, which clearly violates the unclaimed property laws, pursuant to which such abandoned property are forfeited to the government. With respect to the current amounts, the record shows that they are controlled by court orders, and when not appealed or forfeited, the vast majority are processed on a regular basis through the established procedures for notifying parties and attorneys of the exoneration orders. Refund applications which follow the orders result in the prompt return of cash bail bonds; however, where no applications are filed, refunds are delayed pending review of the record.

3. For the reasons stated in Section B(1)(b) above, we reject this recommendation as clearly erroneous and inappropriate.

4. At the exit conference, we made it clear that the use of "confirming orders" is not illegal, and that they will be used whenever it is necessary to insure the continuation of judicial services to the public. The proper exercise of administrative responsibilities compels the recognition of substance over form, and reality over bureaucracy. When all factors are considered, it becomes obvious that this recommendation disregards the unusual circumstances which exist, and it therefore cannot be accepted.

5. For the reasons stated in Section B(1)(b) above, we reject this recommendation as clearly erroneous and inappropriate.

6. We agree with the portion of this recommendation regarding the reduction of the time allowed for submission of travel vouchers, but it is already the policy of the court that all travel advances be properly accounted for, including reimbursement for unused amounts.

7. The existing policy of the court already limits the use of the Court's telephone for personal long distance calls, except in emergencies of staff employees, and except for supervisory employees, as previously explained herein.

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The violation of the policy that occurred in St. Croix has already been corrected. Accordingly, to the extent that this recommendation suggests a change in policy as to supervisory employees, we disagree.

8. For the reasons stated in Section B(4) above, we agree that with adequate staffing the enforcement portion of this recommendation can be implemented on a regular basis; however, we disagree with the property identification portion, as explained at the exit conference and in the foregoing sections.

D. Comments and Appendix I

While we agree that the preliminary draft of the audit report was fully and amicably discussed at the exit conference on May 28, 1998, we did not concur with all the findings and recommendations. We did compliment the auditors for their cooperation during the audit, and we did advise them that certain corrective actions had been taken and will continue to be taken where appropriate. However, as the preceding responses show, we agreed with some recommendations and disagreed with others. As a result of our objections, we contend that the monetary amounts shown on Appendix I are erroneous, and should be corrected.

In conclusion, we extend our gratitude to the entire audit team for their patience and indulgence as we tried to operate in the midst of the worst financial crisis facing the local government, which funds this court. We also thank Mr. Arnold E. vanBeverhoudt, Jr., Director of Insular Area Audits, for his consideration in granting our request for a one-week extension to file this draft response to the draft audit report.

If there are any questions regarding this response, please contact Mrs. Viola E. Smith, Court Administrator, at (340) 774-6680, Ext. 6409.

Sincerely,



Verne A. Hodge
Presiding Judge/

STATUS OF AUDIT REPORT RECOMMENDATIONS

| Finding/Recommendation Reference | Status | Action Required |
|-------------------------------------|--|---|
| 1 | Implemented. | No further action is required. |
| 2, 3, 4, 5, 7, and 8 | Unresolved. | Reconsider the recommendations, and provide a response to each recommendation indicating concurrence or nonconcurrence. If concurrence is indicated, provide an action plan that includes a target date and title of the official responsible for implementation. If nonconcurrence is indicated, provide reasons for the nonconcurrence. |
| 6 | Management concurs; additional information needed. | Provide a target date and title of the official responsible for revising the travel policies and procedures to provide a shorter time frame in which travel vouchers should be filed. |

**ILLEGAL OR WASTEFUL ACTIVITIES
SHOULD BE REPORTED TO
THE OFFICE OF INSPECTOR GENERAL BY:**

Sending written documents to:

Calling:

Within the Continental United States

U.S. Department of the Interior
Office of Inspector General
1849 C Street, N.W.
Mail Stop 5341
Washington, D.C. 20240

Our 24-hour
Telephone HOTLINE
1-800-424-5081 or
(202) 208-5300

TDD for hearing impaired
(202) 208-2420 or
1-800-354-0996

Outside the Continental United States

Caribbean Region

U.S. Department of the Interior
Office of Inspector General
Eastern Division - Investigations
4040 Fairfax Drive
Suite 303
Arlington, Virginia 22201

(703) 235-9221

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U.S. Department of the Interior
Office of Inspector General
North Pacific Region
415 Chalan San Antonio
Baltej Pavilion, Suite 306
Tamuning, Guam 96911

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